

REMARKS

Applicant wishes to thank Examiner MacArthur for his time and courtesy in the course of an impromptu interview with the undersigned attorney on 20 July 2009 on a procedural point, and a substantive interview on 22 July 2009. As a result of those interviews, and the Interview Summaries sent by Examiner MacArthur on 23 and 24 July 2009, respectively, this Amendment is being filed as a submission in connection with the RCE.

Claims 1-11 and 14-17 were previously pending in this application. Claim 1 has been amended for clarity and to include limitations from claims 4-6, and a portion of new claim 18 comprises limitations from original claim 6. Claims 4-6, 12-14, 16, and 17 have been cancelled without prejudice in an effort to advance prosecution. With respect to the indefiniteness rejection, Applicant believes that the amended claims respond to each and all of the issues pointed out by the Examiner. Applicant appreciates the careful reading of the claims by the Examiner and his pointing out the indefiniteness issues.

All of the previously pending claims have been rejected under 35 U.S.C. 102(b) as anticipated by Bailey. Applicant submits that the claims, as amended, patentably define over this reference.

Coupling 10 of Bailey is an axial connector between posts 14 and 15. End members 32 are fixed in the facing ends of the posts. Plate 16 is fixed to one member 32 and post 15, and plate 17 is fixed to the other member 32 and post 14. Grooves and ridges 28, 29 hold the plates in a secure position when bolt 35 is tightened onto nut 36. Until the bolt is tightened, plates 16 and 17 can rotate with respect to each other. Railing connection members 22 and 25 are pivotably connected to respective plates 16, 17.

Claim 1, on the other hand, defines connection assembly 50 as being couplable between post 40 and rails 20, 30. The insert is defined to be “removable” and “shaped to fit at least partially within the hollow of the post.”

Bailey has no such structure, nor any equivalent structure. Each post 14, 15 has an end cap 32 to which the respective plate 17, 16 is fixed, so there is no hollow in the posts – they are permanently capped. There can be no insert as defined in Applicant's claim 1.

Further, the insert portion 70 connected to the post end comprises:

an upper portion [71] defining a through hole and a separate lower portion [76] defining a threaded hole for receiving a thread on the shaft of the primary fastener, the through hole and the shaft being sized to provide clearance between the through hole and the shaft, the upper and lower portions of the insert having facing inclined faces that slide relative to each other when forced together by tightening of the primary fastener, thereby causing the insert to grip the internal wall of the post.

The elements that connect to post 40 (upper and lower portions) are not rotatable but, because of their facing inclined faces, they are forced to slide and securely engage the internal walls of the post. This is functionally the result of bolt 60 being threadedly engaged with lower portion 76 and being structured to pull the lower portion upward against upper portion 71, causing the sliding and gripping effect.

Specific reference to Bailey, column 5, lines 12-15, makes the difference clear;

Posts 14 and 15 may be connected to coupling 10 by end members 32.
End members 32 may be secured to the ends 12, 13 of posts 15, 14 by suitable fasteners or be welded thereto.

Clearly there is no disclosure or suggestion in Bailey of an insert that meets the limitations of claim 1, as set out above.

Further, claim 1 goes on:

wherein the position of each of the arms [51, 56] is lockable with respect to the inset and the insert is lockable with respect to the internal walls of the post by a single action of tightening the primary fastener [60].

There is nothing structurally or functionally equivalent in Bailey. The rail connecting arms 22, 25 of Bailey are fixed to plates 16, 17, which are, in turn, fixed to posts 15, 14, so for this additional reason, claim 1 patentably defines over Bailey.

Independent claim 7 likewise defines over Bailey. This claim calls for “an insert shaped to fit partially or wholly within the hollow of the post.” As discussed above with respect to claim 1, Bailey has no such structure.

Claim 7, as amended further defines:

a lock for locking the insert to the post, the lock comprising an upper portion ... defining a through hole and a lower portion ... defining a threaded hole for receiving a thread on the shaft.

Bailey has no such structure. It has a bolt and a nut to secure the plates in fixed position, but nothing which locks an insert into a hollow in the post which has a lower threaded portion and upper portion with a through hole where the threaded shaft locks the two portions together.

Claim 7, as amended, further requires:

the through hole and the shaft being sized to provide clearance between the through hole and the shaft, the upper and lower portions ... having facing inclined faces that slide relative to each other when forced together by tightening of the primary fastener thereby causing the insert to grip the internal walls of the post.

Once again, as discussed above with respect to claim 1, Bailey has no such structure or function.

The discussion above with respect to claim 1 in relation to the final “wherein” clause applies equally here and also distinguishes over Bailey.

Claims 2, 3, 15, and 18 depend from claim 1 and serve to further limit and define the structure defined by claim 1. Claims 8-11 depend from and further define the

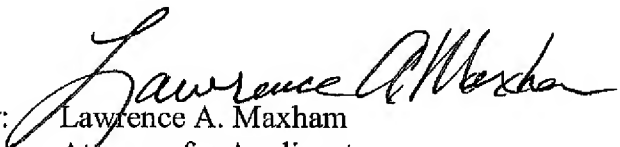
structure identified in claim 7. These dependent claims are believed to be allowable for at least the same reasons as are claims 1 and 7.

Early allowance of the pending claims is requested. Should any issues remain unresolved, Examiner MacArthur is invited to telephone the undersigned attorney.

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Respectfully submitted,

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